



EMPLOYEE BULLETIN

No. 470

2 October 1975

RELEASE OF CLASSIFIED MATERIAL TO THE HOUSE SELECT COMMITTEE ON INTELLIGENCE

1. On 12 September 1975, the President directed "all departments and agencies of the Executive Branch respectfully to decline to provide the House Select Committee with classified material, including testimony and interviews which would disclose such materials until the Committee satisfactorily alters its position." In light of action taken by the House Select Committee on 1 October 1975, the President has withdrawn this directive and has authorized departments and agencies to once again provide the House Select Committee with classified materials.

2. The vehicle for reaching the agreement with the House Select Committee was Director Colby's letter to Chairman Pike of 30 September 1975, a copy of which is attached.

3. The letter contains the following conditions: (1) the classified materials forwarded to the Committee are on loan to it; (2) that there will be no public disclosure of this classified material (nor of testimony, depositions or interviews concerning it) without a reasonable opportunity for us to consult with respect to it; (3) in the event of a disagreement, the matter will be referred to the President, and if the President then certifies in writing that the disclosure of the material would be detrimental to the national security of the United States, the matter will not be disclosed by the Committee; and, (4) the Committee reserves its right to submit the matter to judicial determination. In forwarding requested classified material to the House Select Committee, we will continue to make deletions of sources and methods.

4. Accordingly, Employee Bulletin No. 467, which suspended provision of classified materials to the House Select Committee, is rescinded.

Attachment

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

30 September 1975

The Honorable Otis G. Pike, Chairman
Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

With the approval of the President, I am forwarding herewith the classified material, additional to the unclassified material forwarded with my letter of 29 September 1975, which is responsive to your subpoena of September 12, 1975. This is forwarded on loan with the understanding that there will be no public disclosure of this classified material (nor of testimony, depositions or interviews concerning it) without a reasonable opportunity for us to consult with respect to it. In the event of disagreement, the matter will be referred to the President. If the President then certifies in writing that the disclosure of the material would be detrimental to the national security of the United States, the matter will not be disclosed by the Committee, except that the Committee would reserve its right to submit the matter to judicial determination.

In some twelve instances in the enclosed classified material, excisions have been made of particularly sensitive matters. In ten of these instances, they would pinpoint the identity of individuals who would be subject to exposure. In two cases, this would violate an understanding with a foreign government that its cooperation will not be disclosed. In each such case, Mr. Chairman, I am prepared to discuss with you, and the Committee if necessary, the specific basis for this exclusion due to the exceptionally high risk involved, and I am sure that we can come to a mutual understanding with respect to its continued secrecy or a form in which its substance could be made available to the Committee and still give it the high degree of protection it deserves. In case of disagreement, the matter will be submitted to the President under the procedure outlined above, and the Committee would of course reserve its right to undertake judicial action.

Sincerely,

/s/

W. E. Colby
Director

Enclosures



Mr. Colby: I asked you all to come out here today to try to clarify a little bit what the discussion this morning was all about. The first and I think most important aspect is that it is not a dispute between the executive branch and the Congress over the Congress' access to information. All the information concerned has been made available to this committee by this agency and by the other agencies. What it really is all about is whether that material, which is highly classified, will be released publicly, and to the other nations that are most interested in it, by the action of a subcommittee of the Congress in a matter of an afternoon, and by a vote of that subcommittee without consultation and discussion with the originators of that kind of material. The material in question does include some material that in my view would reveal the intelligence sources and methods; and there is a specific statute that calls upon me to protect intelligence sources and methods from unauthorized disclosure. The particular kind of material we are talking about also happens to be communications intelligence, and there is a specific statute referring to that and giving that kind of intelligence specific, extra protection beyond what other statutes do for other kinds of classified information and even for other kinds of intelligence sources and methods. Therefore, the question is not whether we will provide this information.

We have provided it. The question is not whether it cannot be made public in some form or another, because over the years we have worked with the other committees of the Congress on many occasions in seeking a particular way of phrasing or paraphrasing or sanitizing in some fashion the documents that they have so that they can be publicly released. I think you'll find that in both my own testimony at various times and in other documents given to the Congress and published by the Congress. You'll also find it, I might add, in a number of subjects that are covered that stem from the most sensitive and highly classified sources. I refer, for example, to the fact that most sophisticated Americans who study Soviet weapons systems know that there is a new generation that is in the process of deployment after considerable experimentation. Most Americans know, on an unclassified basis, the characteristics of those weapons systems, the fact that they have MIRVS, and various aspects of them; and this material comes from the most highly classified and sensitive of sources. But it has been separated from the source indications so that it does not pinpoint the way in which this information was gathered. Therefore, we have in this question here whether we are going to apply the statutory requirement that I do protect intelligence sources and methods and whether we are going to give

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extra protection to this particular kind of intelligence sources and methods. We are certainly prepared to negotiate, discuss, and work out solutions to the very real problems we know that this presents to the Congress in wanting to report to the people; and we are sympathetic with that problem and are sure we could do so. But we can't do so if there is an assertion of a unilateral ability of a subcommittee chairman to do this without consultation and without an effort to develop a way in which it can be made public without injuring our sources. With that, I'd be glad to listen to questions.

Speaker: Mr. Colby, the Committee's rules seem to indicate, and I think the Chairman cited today, that the Committee has the power to release whatever information the Committee determines. Do you challenge the legality of that Committee rule or . . .

Mr. Colby: This problem came up in the earlier stages of this relationship, particularly with these investigative committees, and we determined that it is easy to avoid coming to the ultimate question there. Good faith on both sides can be worked through and a solution arrived at that is satisfactory to the other committees and yet does protect the particular sources. And I think that kind of negotiation--discussion, consultation--would have resulted in a solution to this problem.

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Mr. Colby, you've said in the past that some of the

things that have been examples of wrongdoing by the CIA were aberrations, that you should be judged on what the Agency does. Are you at all embarrassed by the revelation that the Agency was so wrong in the Mideast in 73?

Mr. Colby: No, it isn't a revelation. I've referred to it in public many times myself that our estimates were wrong about that war. Many of the journalists here probably have heard me say that. In various speeches I've referred to it. And so, the fact is that we are wrong sometimes. This building is not a crystal ball. It's an attempt to work out the facts and understanding of foreign situations so that our Government can approach those situations on a basis of knowledge and better understanding. Now, in the course we obviously try to point ahead and see what is likely to develop in the future; and we aren't always right. This was the purpose of the post-mortem, which is the subject of discussion today, which was to examine the way we do these things, to find any weaknesses in them, and improve our performance. And we have made a number of changes in order to improve our performance.

Speaker: Chairman Pike suggested this morning that what had happened is that he had simply hit a sensitive nerve, that he was about to demonstrate that the Intelligence Community isn't worth the expense. Were you concerned about that? Do you think that's an accurate statement?

Mr. Colby: No. We indicated that I really have looked forward to these investigations as a way of clarifying to the American people the real nature of modern intelligence and to get us away from some of the old myths about it. And I'm convinced that a full, fair, responsible investigation will show that our intelligence is the best in the world; and, yes, that it is costly, but that it's important to America and is very valuable to America.

Speaker: Mr. Colby, just so we can be sure . . . (Interruption)

2nd Speaker: Chairman Pike was having a discussion with [redacted] STATINTL yesterday about why sources and methods would be revealed in six paragraphs of conclusions from the analyst's statement, and he said that, to him anyway, the average man couldn't see where--pardon me, the average person couldn't see where any sources or methods were revealed by the text of those paragraphs. Could you explain to us as a professional intelligence officer some of the reasons you feel sources and methods were disclosed in those six paragraphs yesterday?

Mr. Colby: Surely. Only in the ones that were deleted and certain aspects that were included, a very few items that were included, does this apply. The fact is that . . . (Interruption)

STATINTL Speaker: [redacted] objected at first to the release of any of those paragraphs.

Mr. Colby: We didn't think that they were totally relevant in that degree. We did release it after some discussion, and the

overall conclusion about the failure and the way in which it happened was released.

Speaker: There was nothing about the sources and methods in the release of conclusions--in the release of all the four words.

Mr. Colby: Of all but the four words and the other items that are still deleted.

Speaker: There's nothing about sources and methods in what we have now.

Mr. Colby: That's right.

Speaker: Except for the four words.

Mr. Colby: Except for the four words, and I'm not going to pinpoint those four words.

Speaker: Well, can you pinpoint why they were being . . .

Mr. Colby: The reason I do not want to pinpoint the four words and the reason it is important is that they do reveal intelligence sources and methods, and average men and women don't study these things. Very expert analysts go over it.

They go back to the date on which the event took place.

They look at the practices that they were going through at that time to see what the basis for the statement in that particular phrase might have been. They examine their own machinery to see if there are chinks in the armor and whether there are gaps in their ability to keep secrets that they want to keep secret.

Speaker: But aren't experts now going through this and aren't they
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going to spot those four words? And then, why not the rest of us?

Mr. Colby: They may well, but I don't want to help them. And some of their experts may not be as good as some of the others.

Speaker: You've already said that it deals with communications intelligence and it seems a fairly good guess to speculate

[Redacted] STATINTL

Mr. Colby: Well, I'm not going to discuss the specifics of the four words. I am referring to the fact that we do have to examine very carefully whether a particular revelation of certain material would indicate the source. This is the same problem that you ladies and gentlemen of the press have in the way you write certain things in order to protect your sources; that if you write a thing in a certain fashion it will reveal the source, and if you write it in another fashion it won't reveal the source.

Speaker: STATINTL Why did you have [Redacted] object to the release of the whole paragraph at first, when he first spoke yesterday?

Mr. Colby: When we first talked about this, the question was "Can we release enough of this so that the conclusions come clear--so that the basic thrust of the message comes clear?" And the answer was "Yes, we can." The question

at that time immediately gets into the picking out of one word, two words, three words; and initially we didn't really think it was that important to the theme being pursued, and that consequently it would be easier if he left the whole thing out. But, when an issue was made about it, we looked at it carefully and stressed that only certain, very key words would be important to determining the source.

Speaker: Mr. Colby, you've been concerned about the public credibility of this agency and the substance of this, without going into things that you don't want to discuss, the substance of this involves a four-word phrase and which you assert may jeopardize the sources. But, time and time again, the assertion has been made that sources are involved. Frequently, what seems to be involved is something which any 25-year-old on any side would know. If it is a matter of whether they could come to the conclusion that we have a capability for monitoring communications--is this a great surprise to you?

Mr. Colby: That's no problem. We've indicated that in the text we've released that communications intelligence operations are carried on. The problem here is that we were referring to one specific thing at a specific time and date; and, obviously, in a foreign country certain specific things

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were being done at that time. And, a capitulation of those--a meticulous recapitulation of those--by experts in that country could indicate to them that certain of their systems are strong and certain of their systems are weak.

Speaker: Are you convinced that these four words, whatever these four words are, are really important enough, either in themselves or as an example of something else that would be more harmful, that would justify this confrontation that you have now entered into?

Mr. Colby: I certainly think these four words are worth it. I confess I'm delighted that this issue did not arise over the revelation of a name of an American who has helped us at some risk to his own company's business and his own livelihood, or to a foreign agent of ours who might be exposed to punishment and some form of retribution by his government. We did not have that issue, but it's inherent in this issue that we are discussing: As to whether the Chairman and the subcommittee unilaterally will decide upon the release because they don't think it's important, or whether they will consult with us and work out a solution to the way the matter is phrased so that we both can go away happy.

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What step are you prepared to take to gain control

of the material that they now have, if they have decided to . . .?

Mr. Colby: That's a subject for further negotiation and discussion. It's premature to answer that question right now.

Speaker: Mr. Colby, did you ask the Committee to delete the four words that we're talking about, or did they just not do it, or were they not asked to delete those four words?

Mr. Colby: They were asked and they voted against it.

Speaker: Mr. Colby, there's always been a suspicion of using the sources and methods argument to keep secret things that would be embarrassing and now there seems to be growing suspicion that you're using this furor to cut off cooperation with that committee and stop its work. Are you going to try to stop the work of that committee?

Mr. Colby: Of all the things I've done in the course of these investigations, I think that keeping information from the committees was not prominent among them. If anything, I've been criticized rather forcefully for giving them more than perhaps was necessary. So we are not holding information back from the committee; we're not holding information back from the Congress; we're not holding information back from our normal links on the Hill. We are asking that we have some arrangement by which we have some assurance that there will not be a unilateral decision by

a subcommittee to go ahead and release something that we think is important without any discussion or consultation with us.

Speaker: Well, for right now are you going to cut off cooperation and stop giving them more material?

Mr. Colby: With respect to the House Committee, certainly. The President indicated that he has directed, and I'm in full support of that, that we no longer provide any witnesses or any classified information to them.

Speaker: Mr. Colby, the only way this committee has made much headway has been to get information from you. In effect, what you are telling us is that you're going to stop that investigation unilaterally.

Mr. Colby: We're going to stop it until we can work out an arrangement where we have some assurance that there won't be any revelation without our discussing it together.

Speaker: Mr. Colby, why do you recommend this action . . . (Interruption)

Speaker: Did you recommend this action to the President, Mr. Colby?

Mr. Colby: Our people were discussing this with the committee yesterday, and I've taken this position. Obviously, the President is aware of this whole situation.

Speaker: Did you personally recommend to the President or [redacted] that this be the method of handling?

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Mr. Colby: I made the recommendation to the committee that this material not be revealed, and, then following its

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revelation of it, I've been in touch with the White House

and various people there to discuss what should be done
about it.

Speaker: But they've taken a very particular course of action.

They have halted any cooperation . . .

Mr. Colby: I concur fully with that.

Speaker: But did you recommend it?

Mr. Colby: I concur fully with it. I really don't think we are going
to get into a discussion of who recommends what to the
President at any one time.

Speaker: Can you rule out . . . (Interruption)

Speaker: What else did you recommend?

Mr. Colby: I'm not going to talk about who recommends what to the
President.

Speaker: . . . You can recommend it and . . .

Mr. Colby: I really don't think I want to get into the discussion
about recommendations to and from the President.

Speaker: Well, you are in the position . . . (Interruption)

Speaker: . . . halt this investigation.

Speaker: Mr. Rowan and others have suggested and I wanted to know
if you, in fact, recommended . . .

Mr. Colby: I fully subscribe, agree, and concur with this action.

Speaker: Mr. Colby, these words, we understand now, were the
subject of some discussion before and there was obvious
disagreement. Is it not the sort of disagreement that

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reason 'le men can have, and the committee in its wisdom,
chose to believe that you are wrong?

Mr. Colby: I was not consulted myself. I was not present. I had no opportunity to discuss what it meant, the background of it. I've not had any chance. We could have worked this out undoubtedly over the weekend, or sometime--but to have a vote right then.

Speaker: Did your people discuss it with the committee?

Mr. Colby: Well, I'm not going to go into what happened during the executive session, but we made the point that that material should not be released.

Speaker: My point is--is it really an open page or is it a possibility that it is a matter of judgment, and in its wisdom the committee judged that the argument put forward by your people simply had no merit?

Mr. Colby: It is indeed. It's a matter of judgment, and I think my qualifications to judge this thing are at least as good as the members of the subcommittee who really are just new to this whole field.

Speaker: Mr. Colby, you speak a lot about unilateral decisions. Are you claiming for yourself the unilateral right to decide what of this can be made public?

Mr. Colby: No. As I've said to the other committees of the Congress, we try to avoid getting, and find no necessity to get, to that ultimate question, which is a very complicated question

Approved For Release 2002/09/05 : CIA-RDP83g01042R000400110003-4 work it out.

Speaker: And when you do get down to the ultimate question, it's going to be your way rather than their way?

Mr. Colby: I'm going to avoid the ultimate question. This is the position we've taken with the other committees. We just are not going to get to that question. There are lots of times you can work things out without getting to ultimate questions.

Speaker: You got close today.

Mr. Colby: Pardon?

Speaker: Aren't you close to the ultimate question now?

Mr. Colby: Yes, we're close to it now. They've already assumed the answer to the question without trying to work it out.

Speaker: On your part, are you contemplating court action, a declaratory judgment . . . ?

Mr. Colby: It's premature to say how we are going to work it out, but we'll undoubtedly negotiate about it and try to resume the cooperation and collaboration that we have had. As I've said, we have provided a great amount of information to all the committees and specifically to the two investigating committees. I don't see any reason why we can't go back to that, provided we get some resolution of this critical question of unilateral authority to release material without discussing it.

Speaker: Mr. Colby, regardless of who took the initiative . . .

(Interruption)

Speaker: . . . could you not have deleted the four words before you brought it to an issue?

Mr. Colby: The question about deleting it--we have tried not to take the position that we will delete all classified information. That's a question that we don't want to go that far. As Chairman Pike said, that would make it impossible to investigate the Intelligence Community.

Speaker: Mr. Colby, some of the words are deleted from this document. Were they deleted by the committee at the suggestion of CIA?

Mr. Colby: Yes.

Speaker: So the committee got the document without the deletions?

Mr. Colby: Yes.

Speaker: Mr. Colby, regardless of who took the initiative in demanding the return of these documents, did you in fact discuss the action with President Ford before the White House made its demand?

Mr. Colby: I've had discussions with the White House today.

Speaker: With President Ford?

Mr. Colby: With the White House.

Speaker: Is it your knowledge that this will be the position taken by the Administration with regard to all agencies, not just your own?

Mr. Colby: The statement by Mr. Lee did specifically say he is speaking for the executive branch.

Speaker: Are the CIA's ground rules on the release of information-- are they clear enough to all the offices of Congress or will this question continue to come up again and again?

Mr. Colby: It's really been no great problem. We give testimony; we give highly sensitive testimony in executive session. We then discuss how much of it can be released. We have discussions and even arguments about how much should be released. We've been able to resolve those arguments in all previous cases to the mutual satisfaction of both sides.

Speaker: Will this relationship continue on this basis or do you see necessity for CIA to get tough?

Mr. Colby: No, I'm looking forward to the continuation of our very good relationships with the rest of the Congress. We have some very good relationships. We regularly provide them with very sensitive material. I'm looking forward to continuing that because we have an understanding that it will not be released without our agreement.

Speaker: Did you have any advance warning what was going to happen yesterday?

Mr. Colby: I found out yesterday.

Speaker: If Mr. Pike refuses to change his position, is there no way that he will be given classified information?

Mr. Colby: That's what the President's directive said today.
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Speaker: Mr. Colby, after having heard all this, it seems rather clear that you don't have confidence in the expertise of Congressmen with regard to sensitive classified security information. They on the other hand obviously distrust your motives in invoking sources and methods and national security; and I think that's perhaps the dilemma of our times.

Mr. Colby: I think both sides have a reason for their position and it's a position that reasonable men can work out. There are lots of incompatible things that we work out, we Americans, through discussion and compromise. As I said, paraphrasing, changing words slightly, things of this nature can get the thrust across and still protect the particular source.

Speaker: Do you plan to meet with Mr. Pike on this?

Mr. Colby: Not at the moment. I really don't know what we are going to do about it right now.

Speaker: Have you received any communication from him or anybody else on the committee?

Mr. Colby: No, I have not.

Speaker: Or have you in turn communicated with the committee since the events of this morning?

Mr. Colby: No, I have not. It's premature to give you the answer to what I plan to do.

Speaker: Mr. Colby, you have said that you were looking forward to the day when they would get into the question of how well the intelligence agencies operate. Judging from what's happened right now, it looks like they won't get into it too deeply.

Mr. Colby: I still look forward to getting into it. We have one post-mortum here that does indicate that we were wrong. It's a post-mortum that we put together ourselves in order to learn some lessons. We have other situations that we are really quite proud of it terms of the work of the Agency--the SALT agreements, various others, the Pentagon Papers problems, various things of this nature that have gone on over the years. I think that the purpose of intelligence, again, is not to be a crystal ball that tells you that every leaf on every tree is going to fall on just what time and date. The purpose of intelligence is to increase our general American awareness of the realities of the world in which we live and the factors at work so that we can approach these problems on a basis of better understanding. With this, we obviously try to project. Sometimes we're right--most times we're right--sometimes we're wrong.

Speaker: If I could follow up on that for just a second. If the committee won't be able to get to an evaluation without your cooperation, would you predict that something will be worked out or do you think that this is it?

Mr. Colby: Approved For Release 2002/09/05 : CIA-RDP83-01042R000400110003-4
in the ability of the American constitutional

structure to work out solutions to apparent impasses.

We've done it on many occasions.

Speaker: Mr. Colby, one of the recommendations in the post-mortem would appear to imply, at least to me, greater effort and resources expended on the analytical side and relatively less on the collection side. Have you done anything specific in agreement with that recommendation?

Mr. Colby: As you perhaps know, we have been reducing the amount of personnel and resources in intelligence over the past several years. In that process, I've made a particular effort to protect the analytical side from the same kind and scope of reductions that have applied to some of the others. This has proportionately given them a greater role, although in absolute terms even they have gone down.

Speaker: Mr. Colby, just to pinpoint this . . .

Mr. Colby: Excuse me, we also have put together a number of innovative ideas as to new ways of analysis, new techniques of production of our material, new techniques of presentation of our material to the customers that we serve--a variety of things in order to ensure that our message gets home.

Speaker: The implication that I read into that post-mortem was that you had all the information, but just like at Pearl Harbor you had no way to get it together in the end to make it meaningful.

Mr. Colby: I think the one game that is played in intelligence agencies after an event is to look around for that one report that predicted it, and I guarantee you, you can find it. There is always one report somewhere that predicts an event is going to happen. It may be lost in a hundred that predict it won't, and it may be a prediction of a hundred events that didn't take place. But, after a particular event, you can always find the one report. The post-mortum was to look at the intelligence process of how we put these together and not come up with some nice fuzzy answer that satisfies everybody, and on the other hand, not overlook clear indicators that perhaps are a minority but do deserve serious consideration. I think in that post-mortum that's one of the critical features. We had a bit of a mind set; we thought that certain factors were moving in a particular direction and we did not give adequate attention to some other reports and other factors that indicated the contrary.

Speaker: How much weight do you give to the point that Ray Cline made yesterday on one case of inaccurate performance on the part of the Intelligence Community; that it's all coming from the bottom; you're not getting information from the top; that you're not finding out what is being said in high level negotiations?

Mr. Colby: We see a certain amount of that and it does affect it
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we don't. And with the ability of the press to penetrate
the information sources of our Government, I have a certain
sympathy with the desirability of holding close some of the
more sensitive diplomatic negotiating initiatives and
activities; and, therefore, I feel that the intelligence
business can give an independent view of a negotiation or
a situation in which our political leaders might be
operating on a misapprehension based on direct assurances.
And, if we in the Intelligence Community can present the
fact that that is contradicted by some other indicators,
then we make them ask the question of whether they are
right or maybe they are being told something that is not
right. This happens all the time all over the world.

Speaker: Were you aware enough in the period that Mr. Cline talked
about--the Nixon/Kissinger period--were you aware enough
of what was being said in high level negotiations to be
able to provide that information?

Mr. Colby: I can't give a flat, overall statement about that.
Sometimes we knew about them, sometimes we didn't. And,
I think that is not the major factor in this situation.
It certainly was not the major factor that lead to this
particular mistake, by a long shot.

Speaker: Mr. Colby, to get back to the point of the dispute yesterday, were you asserting your objections to whatever it was that the Committee wanted to put in and did eventually make public--as Director of Intelligence, on behalf of NSA, or as CIA Director or what?

Mr. Colby: I was asserting them because the statute tells me that I am responsible for the protection of intelligence sources and methods.

Speaker: Was it NSA that said, "Don't do it"?

Mr. Colby: No, it was me.

Speaker: But as Director of CIA or as Director of Central Intelligence?

Mr. Colby: It says "The Director of Central Intelligence will protect . . .," and that's my job, so I tried to carry out what the statute told me to do.

Speaker: You get the distinction . . .

Mr. Colby: I get it, but I am responsible all around the block.

Speaker: By the same token, Mr. Colby, could you have released the material, unilaterally, on your own . . .?

Mr. Colby: I would have gone through a procedure before I did so. I would have gone through a rather complicated procedure of assessing what the effect might have been. I did release a certain amount of this material, obviously.

Speaker: So you have more power than the Select Committee of the House?

Mr. Colby: I have the power to release what I think will not reveal intelligence sources and methods. I do have that power, which is also in the statute. It says I will protect intelligence sources and methods from unauthorized disclosure. Obviously, if it's an authorized disclosure, I am not supposed to protect it. I think various executive orders have made the point very clearly that we should not overclassify, that we should release things when we can.

Speaker: But you do have the power to decide what is an authorized as opposed to what is an unauthorized disclosure?

Mr. Colby: Anyone who classifies a piece of material can declassify it under the executive orders.

Speaker: But a full select committee, a special select committee of the House of Representatives, in your opinion does not have that same power?

Mr. Colby: Without going through the procedure of consultation with us and discussing it with us, and particularly in the course without prior warning on that day.

Speaker: Well, they consulted with you but they simply did not do what you want.

Mr. Colby: No, I don't think they really did consult with us. They certainly didn't consult with me. They consulted with a couple of my officers, and we did not have a . . . (Interruption) . . .

I had about two or three phone calls during the day, but aside from that, I had no opportunity to discuss in detail the rationale for this.

Speaker: Did you suggest to them via phone call that you could come down and work this out yourself as one of the options?

Mr. Colby: I had suggested that earlier.

Speaker: They were not interested in your presence?

Mr. Colby: No, they were not interested in my presence.

Speaker: Mr. Colby, now that it's out, how do you size up the impact on our Intelligence Community?

Mr. Colby: This particular item? I'll have to wait until I see what actions are taken by a foreign country; because we have lost intelligence. Here is a rather prominent item of great intelligence value that we have lost by a leak. This particular situation, I will have to look at very carefully to see what reaction this causes, not only in the country concerned, but also among other countries as to whether they are going to take advantage of the attention to this problem and look over their procedures to see if they are working properly.

Speaker: Did you describe this next step, that is to the Committee, and the ramifications of it?

Mr. Colby: I don't know what was said by my officers. I certainly didn't.

Speaker: Mr. Colby, are you concerned that the furor over the President's order that attempts to get this back will call attention to this document that it might not have otherwise received?

Mr. Colby: I think that the document as a whole was going to get quite a lot of attention. I think, with your ability to locate references, you're going to do a pretty good job of trying to find out exactly which words, and that certainly will call attention, but I'm not going to pinpoint it.

Speaker: What is the point? If we can. . .

Mr. Colby: That's my point. You can and so can other people if they go at it hard, but everybody in the world hasn't got the same ability that you ladies and gentlemen have of ferreting things out.

Speaker: You may tell them.

Mr. Colby: That's your business.

Speaker: There's been a lot of discussion that perhaps the reason the CIA did this measure was because there are things that would be brought out by the Pike committee's investigation into the [redacted] next week . . .

STATINTL

The CIA's role with the entire [redacted] over the last year and a half . . .

STATINTL

Mr. Colby: We are just reacting to this particular situation. We were not thinking ahead to any particular problem in the future. Although, as I did indicate, I am concerned about the human beings who work with us, both Americans and others. I believe that we must make this point. I have given very firm assurances to a lot of people, both Americans and foreigners, that their names will not come out. Now I have got to carry out that assurance or we are not going to get people to work with us. We're already having people withdraw from working with us, and I certainly don't want to chase any more away. I think that gives the answer.

Thank you very much, ladies and gentlemen.

*RW/PST*

EMPLOYEE BULLETIN

No. 462

3 September 1975

House Select Committee on Intelligence

House Resolution 591 established a House Select Committee to review U.S. intelligence activities. The Resolution calls for a comprehensive review of the organization, operations, and oversight of the U.S. intelligence community.

It is in the interests of all of us to see that the Select Committee gains a full understanding of our activities and the importance of their contribution to the country as expeditiously as possible. I have every confidence that the inquiry will produce new understanding of and improvements in the American intelligence system.

It is with this conviction that I have pledged my personal cooperation, and that of the CIA. I have advised Chairman Pike and Vice-Chairman McClory that employees of the CIA will be available to the Select Committee for interviews and for testimony. Most of these interviews and testimony will be designed merely to obtain factual or background information. The Committee may also delve into activities it feels are not clearly spelled out in our charter. Employees called for interview or testimony who feel concern about their personal responsibility should not hesitate to consult with our General Counsel. They furthermore may be assured that the Agency will give every proper assistance to employees in placing in context the responsibilities and authority that were laid upon them with respect to any areas under inquiry.

We are working out procedures with the Committee Staff to facilitate their work. Attached to this bulletin is a letter which I have sent to Chairman Pike. To facilitate the necessary work of the Committee and in recognition of the security protection contemplated by the Committee, I have determined that disclosure of otherwise protected information to the Select Committee or its designated Staff members will constitute authorized provision of information within the meaning of the Secrecy Agreements signed by each CIA employee, subject to the

special procedures and limitations set forth in the letter regarding particularly sensitive matters. Of course, employees must bear in mind that this limited release allowing them to disclose classified information to the Committee does not constitute a general release. It is one limited to the Committee only.

The cooperative spirit of our relationship with the Committee and its Staff must at the same time take into account the rights of Agency employees. The Committee Staff has agreed to advise employees of their Constitutional rights at the beginning of any interview or other appearance.

When a current Agency employee is selected to be interviewed, the Staff Director or Chief Counsel will normally notify the Review Staff [redacted] who will then contact the employee through the appropriate Directorate. This procedure is intended to allow time for the employee to gain general legal advice if he or she wants it, on which he may consult our General Counsel, and to obtain security guidance from an appropriate senior officer.

STATINTL

As in the case of the Senate Select Committee, my own belief is that after a careful review of all U.S. intelligence activities, the House Committee will address needed legislative changes and will reaffirm its confidence in the importance and contribution of U. S. intelligence.


W. E. Colby
Director

Attachment: a/s

DISTRIBUTION: ALL EMPLOYEES

Approved For Release 2002/09/05 : CIA-RDP83-01042R000400110003-4
CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

September 3, 1975

The Honorable Otis G. Pike, Chairman
Select Committee on Intelligence
House of Representatives
Washington, D. C. 20515

Dear Chairman Pike:

On July 25th I left with you a packet of materials concerning approaches that might be appropriate in handling the variety of demands your Committee will be making upon the Agency in the months to come. Since then we have had discussions regarding security and other aspects of your Committee's investigation. In addition, the Committee's Staff Director and Counsel have held a series of discussions with our Special Counsel and members of my staff. With this then as background, let me suggest certain approaches that I believe will insure our ability to respond promptly and fully to the needs of the Committee.

I. Documents:

Upon receipt of a written request from the Chairman, Staff Director or Committee Counsel for documents dealing with a particular area of inquiry, the Agency will promptly respond with an answer, a partial response or at least a statement as to when the materials will be available. To insure that there are no misunderstandings as to the materials requested, it may be helpful for your staff to initially discuss the scope of a proposed request with our staff before it is reduced to writing. In addition, I have encouraged our staff to contact your staff members and discuss the precise nature of any request not clear on its face. Further, our staff has been instructed to make materials available as soon as they are ready and not to hold up a response until all of the materials requested have been compiled. When documents are withheld because clearance is being sought from another Agency, your Committee will be notified.



To assist us in servicing your requests we have also asked that the various requests for documents be coordinated in order that we might be advised as to the House Select Committee's priorities among the various demands. We have set up a reading room at the Agency where documents will be made available for examination.

With respect to the documents to be made available to the Committee, there are certain sensitive materials that must be protected not only from exposure but even the risk of exposure. Included in this sensitive category are:

- identities of agents and sources;
- identities of persons involved in Agency operations who would be subject to personal, physical danger, to extreme harassment or to economic or other reprisals if their names were to be publicly identified;
- material provided confidentially by cooperating foreign intelligence services;
- details that would reveal the nature of sensitive intelligence methods and techniques of collection, by technical and human means;
- identities of cooperating Americans and American organizations and contacts to whom we have a confidential relationship.

In making such deletions, our staff has been instructed to describe the deletion, e.g., as a CIA officer or a source, in order to place the material in context. Where your staff believes that a particular name or detail is critical to their inquiry, this then should be brought to the attention of our staff and the matter can be negotiated. I believe this procedure is consistent with your statement to me that the Committee is not interested in our sources and methods, or in the names of agents as such.

Finally, some proposed testimony and requests for documents may enter the area of the executive decision-making process in which the need to protect the confidentiality of advice or recommendations to policy-making bodies has long been recognized. This would apply, for example, to Presidential or 40 Committee deliberations relating to approval of CIA actions. Where such a circumstance exists, the Committee will be advised.

We will want to work together, too, to protect certain other information which, if improperly disclosed, could impair the legitimate rights of privacy of individuals. I am sure we can deal with these matters so as to protect this essential privacy while satisfying the Select Committee's need for a full understanding of intelligence activities.

II. Witnesses:

You doubtless will want to interview present and former CIA employees. It is our understanding that prospective witnesses will be advised of the scope of the inquiry and may be accompanied by counsel, as provided by the Committee rules. Current employees will, of course, be made available to the Select Committee for staff interviews and for testimony. This on rare occasions may require special arrangements, including testimony under alias, to protect the identity of employees whose safety or future utility might be jeopardized by exposure. With respect to the interview of Agency employees who are currently on detail to other agencies in the government and whose testimony relates to CIA matters, we will arrange with the host agency to make the employee available upon request of the Committee. Where the employee is sought to testify with respect to matters concerning his detail or matters relating to the host agency, we will bring your request to the attention of the host agency. Thus, if your staff will advise us of whom they wish to interview, we will make the appropriate arrangements with our employees. While I have no authority to direct the cooperation of ex-employees, I will be happy to assist you in any way I can. In a very few cases, their identities also will have to be protected.

As you know, each employee had to sign a secrecy agreement upon entering on duty. This requires that he keep forever secret all classified information gained during his employment, unless he obtains prior authorization to disclose it from the DCI. These secrecy agreements signed by our employees and ex-employees need not impair the necessary work of your Committee. In view of the security protection contemplated by your Committee, I have determined that disclosure of otherwise protected information to the Select Committee or its designated staff members will, in most instances, constitute an authorized provision of information within the meaning of the secrecy agreements. The attached Employee Bulletin may be used to indicate authorization for

any Agency employee to furnish information to the Select Committee or to appropriate staff members on matters which otherwise would be covered by their secrecy agreement. Where, however, the answer to the particular question covers the highly sensitive matters mentioned above, the employee or former employee is obligated to consult with the Agency before responding. In this regard, the Agency would appreciate being notified before the Committee contacts each Agency employee or ex-employee who is to be interviewed or called to testify. I attached a separate letter addressed to CIA ex-employees which should be shown to them for the same purpose.

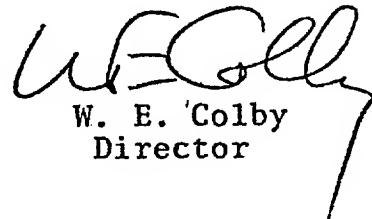
STATINTL
Since so many of our activities involve sensitive areas, I propose an approach which should aid the Committee in expediting its investigation. If the Committee will notify [redacted] Special Counsel to the Director, of the areas of its inquiry at the outset, we would be in a position to highlight particularly sensitive issues and work out methods to insure that your Committee obtains what it needs without unnecessary risk to the sensitive matters. We will then be in a position to bring to the Committee's attention whether any particularly sensitive issues may be involved. Such an approach will insure you get the information you need to perform your task and at the same time safeguard sensitive intelligence sources and methods which I am obligated by law to protect.

In conclusion, we ask that your Committee make an early determination as to the ultimate disposition of its records upon completion of its tasks. I am sure you will join me in recognizing that permanent, safe storage and security safeguards will be necessary to protect the sensitivity of the Committee's records. To this end you may wish to discuss permanent disposition with the Archivist of the United States. This matter of ultimate disposition of the records of your Committee continues to concern the Intelligence Community. I hope that this important matter can be disposed of promptly.

It is in our mutual interests to ensure that your review proceeds as smoothly and as expeditiously as possibly. Toward that end, I have instructed all CIA

personnel to respond in a spirit of cooperation. A copy of that instruction is attached. And, I am prepared to consult with the Committee at any time to determine appropriate courses of action.

Sincerely,



The image shows a handwritten signature in black ink, appearing to read "WEC Colby". Below the signature, the name "W. E. Colby" is printed in a smaller, standard font, followed by the title "Director" underneath it.

Attachments:
As Stated

To Former Employees of The Central Intelligence Agency:

House Resolution 591 established a Select Committee of the House of Representatives to review U. S. intelligence activities. It is in the interest of the nation to see that the Select Committee receives the information it needs to fully understand our activities and the importance of our contributions to the country.

Since you have been contacted by a member of the Select Committee's staff for interview you may have questions of your own regarding the implications of the secrecy agreement you signed for the testimony sought from you. As you will recall, the agreement you signed as a condition of employment requires that you keep forever secret all classified information gained by you during the course of your employment. Further, the agreement requires that you may not disclose classified information, either orally or by publication, without prior authorization from the Director of Central Intelligence even after employment with the CIA has been terminated.

In recognition of the security protection undertaken by the Select Committee, I have determined that the disclosure of otherwise protected information to the Select Committee or its designated staff members will--with the exception of a few, specially sensitive matters--in most instances constitute a fully authorized provision of information within the meaning of the secrecy agreement. Of course, employees must bear in mind that this limited release allowing them to disclose classified information to the Committee does not constitute a general release. It is one limited to the Committee only.

The category of especially sensitive matters includes the following:

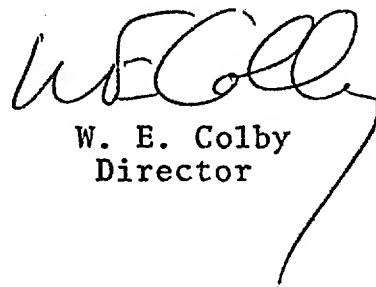
1. Identities of agents and sources;
2. Names of persons involved in Agency operations who would be subject to personal, physical danger, to harassment or to economic or other reprisals if publicly identified;

3. Material provided confidentially by cooperating foreign services;
4. Details that would reveal the nature of sensitive intelligence methods and techniques of collection, by technical and human means; or
5. Identities of cooperating American organizations and contacts to whom we have pledged confidentiality.

If the proposed answers to any of the questions put to you involve especially sensitive matters, you should advise the interviewer that you have a problem and wish to obtain advice from the Agency. Contact the CIA Review

STATINTL

Staff [redacted] for this purpose.



The image shows a handwritten signature in cursive ink, which appears to be "W. E. Colby". Below the signature, there is printed text identifying the person.

W. E. Colby
Director

THE DIRECTOR OF CENTRAL INTELLIGENCE

75-3468

WASHINGTON, D. C. 20505
Approved For Release 2002/09/05 : CIA-RDP83-01042R000400110003-4

28 JUL 1975

The Honorable Otis G. Pike, Chairman
Select Committee on Intelligence
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

In our conversation on Friday you asked for the statutory basis for the compartmentation principle. I wish first to respond to your inquiry and then suggest a manner in which your staff can receive access to the sensitive material protected by special compartmentation systems.

The current basis for the U.S. Government security classification system is Executive Order 11652, promulgated on 8 March 1972. Historically, foreign intelligence has been treated as one category of classified national security information. There are numerous statutory recognitions of the importance of national security information, e.g., the Freedom of Information Act. Consequently, much foreign intelligence is classified CONFIDENTIAL, SECRET or TOP SECRET according to specifications set forth in the Order. Not all foreign intelligence, however, is classified national security information under the provisions of the Executive Order (e.g., an American source providing foreign information or assistance). Also, the potential risks attendant with the compromise of a foreign intelligence source or method differ substantially from the risks attendant with much classified defense information.

Section 102(d)(3) of the National Security Act of 1947, as amended, provides: "That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." In recognition of this responsibility, National Security Council Intelligence Directive No. 1 (17 February 1972) instructs the Director of Central Intelligence to, "...develop and review security standards and practices as they relate to the protection of intelligence and of intelligence sources and methods from unauthorized disclosure."

Since the National Security Act did not provide for an authority corresponding with the DCI's responsibility in this area, the Directive provides that the Members of the U.S. Intelligence Board are responsible for: "The supervision of the dissemination and security of intelligence material." The Director of Central Intelligence, acting with the advice of the U.S. Intelligence Board, has promulgated a number of directives, regulations and security manuals, related to the protection of foreign intelligence and foreign intelligence sources and methods, and applicable to the overall U.S. intelligence community.

The fundamental security principle involved in the protection of foreign intelligence and of its sources and methods is a strict application of "need to know" --a principle referred to in Executive Order 11652, Section 6(A). This applies the simple mathematical premise that the fewer the number of individuals made privy to a secret, the less likely that it will be disclosed. The security principle of "compartmentation" involving special access and information dissemination controls is designed to ensure that only those individuals whose "need to know" has been specifically approved by some higher authority, who have been specially indoctrinated, and who undertake special commitments to protect it are provided access to a particularly sensitive category of foreign intelligence sources and methods. Compartmentation assists in the application of the "need-to-know" principle by ensuring that individuals are provided access to only that information clearly essential to the performance of their duties.

Compartmentation was undoubtedly a major contributing factor involved in the nation's secret development of the atomic bomb during World War II, and the principle is still implicit in security procedures related to ERDA's "RESTRICTED DATA" as reflected in the Atomic Energy Act of 1954. In the field of U.S. foreign intelligence activities, compartmentation was practiced throughout the development and operation of the U-2 reconnaissance program. One of the major foreign intelligence categories of activities using formalized compartmentation procedures today involves the matter of foreign signals intercept for intelligence purposes, i.e., communications intelligence. Title 18 of the U.S. Code Section 798 recognizes the special character of this material by providing specifically for prosecution for the unauthorized disclosure of information concerning any communications activities of the United States without the

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necessity to show intent to harm the United States. The reason for the application of strict compartmentation procedures to communications intelligence and other foreign intelligence activities reflects the extreme vulnerability of the sources. Once an opposition becomes aware of which of its communications we are intercepting, it can take swift remedial action, and the source can be forever lost.

On Friday afternoon, copies of the secrecy oath used by the executive branch with respect to three compartmented access control systems were made available to you along with the revised forms developed for and executed by certain members of the staff of the Senate Select Committee to Study Intelligence Activities. I would hope that the enclosed agreement modified for the House Select Committee, combining all three compartments into one document, would meet your particular concerns.

For your information, in addition to the Senate Select Committee's use of the modified secrecy oath dealing with compartmented access, the following House and Senate committees have obtained compartmented access for their staffs, which was granted after the normal briefings and signing of the secrecy oath:

Armed Services Committee
Appropriations Committee
Aeronautical and Space Sciences Committee

May I reiterate the points I made on Friday:

a. No material is being withheld from members of the Committee.

b. We are prepared to and did brief the staff of the Committee on noncompartmented matters, based upon your certification of their security clearance and the fact that they entered into an appropriate secrecy agreement with you, a copy of which you provided.

c. The compartmentation procedures of the Intelligence Community have been established pursuant to statute and National Security Council Intelligence Directives. The simplest way for the staff to obtain access to this compartmented material would be to accept the normal secrecy arrangements as modified in the enclosed. This would ensure against difficulties in access to such compartmented material throughout the

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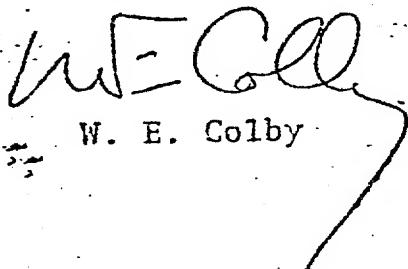
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Intelligence Community. It is clear that the obligations assumed here would run between the staff member and the Committee and in no way would provide any control or influence over them by me or any element of the Intelligence Community.

d. It would undoubtedly be feasible to develop another procedure to ensure special protection of the sensitive matters currently included in the compartmented systems, but this would involve review and discussions with various interested parties which would undoubtedly take some time and delay your investigations.

I hope you will agree that this is the simplest and easiest manner of solving a practical matter so that we can proceed with the substance of your investigations.

Sincerely,


W. E. Colby

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I have been informed that pursuant to law (Sections 792, 793, 794, 795, 797 and 798 of Title 18, United States Code) I am not to discuss with or disclose to any person any information relating directly or indirectly to the below identified compartmented Programs, unless such person is currently authorized to discuss or receive such information or material of the particular category involved. I am aware that the responsibility of ascertaining that such an authorization for another person is valid and current, rests with me.

I acknowledge that it is my responsibility to inform myself of the contents of the above mentioned sections of Title 18, U.S. Code, as they pertain to performance of my duties. I am aware further that if a change in my status renders it no longer necessary for me to receive compartmented intelligence, my name will be removed from the list of persons authorized to receive such material.

News media reports concerning any of these compartmented materials does not relieve me of my obligation under the oath signed below.

I acknowledge that I have been briefed on the following compartmented systems or programs:

OATH OF SECRECY

I do solemnly swear that I will not discuss with or disclose to any person, regardless of his official position or status, any information relating directly or indirectly to Compartmented Intelligence, any information derived therefrom, or the nature of the sources of such intelligence, until I have ascertained that such person has been authorized to discuss

CONFIDENTIAL

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and has ~~Approved For Release 2002/09/05 : CIA-RDP83-01042R000400110003-4~~ been revoked, except in the performance of my official duties on the staff of the House Select Committee on Intelligence and in accordance with the requirements set forth in the rules of such Committee.

Social Security Number

Signature

Witness

Date

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